UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,721	10/18/2001	Michael Slocombe	74120-301396	8719

			EXAMINER

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EXAMINER
PATEL, ASHOKKUMAR B

ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action *Before the Filing of an Appeal Brief*	Application No. 09/982,721	Applicant(s) SLOCOMBE ET AL.	
	Examiner Ashok B. Patel	Art Unit 2154	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>21 November 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

    b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a)☐ will not be entered, or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See continuation sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

JOHN FOLLANSBEE
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35 U.S.C §102:

Applicant's argument:

"McCanne does not teach or reasonably suggest at least discontinuing advertising of the content server system by an associated DNS device."

"Notably, in the above-cited paragraphs, there is no mention of the word "advertise" or any synonym thereof. As such, the above-cited passages do not disclose or reasonably suggest discontinuing advertising under any condition."

"Applicant can find no teaching or reasonable suggestion of "for each content server system having a load characteristic that exceeds the predefined overload metric, discontinuing advertising of the content server system by an associated DNS device" in the portion of McCanne cited by the Office, or in the rest of the reference."

Examiner's response:

McCanne teaches in para.[017], "Alongside each content router is a redirection node **that publishes its presence** to the network and indicates, in effect, the URL namespaces that it manages. Thus, when a user application attempts to communicate over the network with the URL in question, some nearby redirector node in the content distribution network intercepts the request. In turn, that **redirector node routes the client to the most appropriate server based on load and network measurements that the redirector nodes continually gather in the background.** Usually, the best server will reside near the redirector node, but **if the local servers are fully loaded the system may redirect a client elsewhere.** This redirection can be explicit through a direct communication between the client and the redirection system, but can also be

implemented in some cases as an implicit redirection by using the DNS (Domain Name

Service) lookup process to redirect clients."

McCanne further goes on teaching at para.[0126], "Each CDN has an associated

"content backbone", which is the set of AS's that **advertise the anycast address(es)**

associated with that CDN. Within the content backbone, devices are deployed that

are assigned the anycast address(es). **Such devices might be Web servers,**

streaming-media servers, application-specific redirectors, DNS servers, the

virtual address of a layer-4 switch load balancer, and so forth. Thus, any packet

sent to such an address (whether it is a "stateful" TCP service connection or a

"stateless" UDP transaction like DNS) is routed to the nearest instance of anycast-

addressed device."

McCanne further goes on at para.[0135], In prior art, DNS servers map a finite

set of configured names onto a finite set of host addresses. Extensive research and

product development has generalized this model so that DNS may be used for various

sorts of load balancing, Web content replication, and so forth, but in all of these

approaches, the input is a name that must be known ahead of time and explicitly

configured into the naming system.

[0136] Unlike this prior art, the <u>APAR-DNS servers **need not be configured**</u> with

<u>a set of known names that are **to be mapped to a candidate set of addresses.**</u>

Instead, APAR-DNS servers can map an unbounded set of arbitrary names, expressed

in a fashion that encodes information about the content request, onto a set of address

targets. **The targets are configured into the APAR-DNS servers along with**

attributes that describe their capabilities, administrative constraints, and so forth.

The **configuration of targets and related attributes can be dynamically modified** using an external protocol (an APAR-DNS management protocol).

[0137] In addition, **policies are programmed into the APAR-DNS servers** to control the mapping of named service requests onto targets. To properly load balance requests across the service infrastructure and avoid hot spots of network congestion, **server load information and network path characteristics between the APAR-DNS servers at the edge of the network (near the client) and the service infrastructure may be fed into the APAR-DNS server from some external data collection process.**

[0138] The APAR-DNS server programmatically maps a name-to-address translation request into a target by:

[0139] 1) parsing the name to determine the meta-information M related to that named service;

[0140] 2) finding the candidate set of targets in the configured database that match M;

[0141] 3) pruning the candidate set based on configured policy, server load measurements, and network path measurements;

[0142] 4) selecting a member of the final set based on additional policy;

[0143] 5) returning the selected address (or set of addresses) as a DNS A record to satisfy the DNS request (typically with a TTL of 0 so that the entry is used only once).

As indicated above, McCanne teaches "discontinuing advertising of the content server system by an associated DNS device", "discontinuing advertising under any condition.", and "for each content server system having a load characteristic that exceeds the predefined overload metric, discontinuing advertising of the content server system by an associated DNS device".

35 U.S.C §103:

Applicant's argument:

"As a result, Christensen does not remedy the deficiencies of McCanne with respect to claim 9."

Examiner's response:

Christensen teaches a proxy cache cluster system comprising at least two cache servers connected in a cluster (Fig. 3, col. 5, lines 32-40), and wherein the at least two cache servers are coupled to a switch usable to select from among the at least two cache servers based on a selection policy (col. 5, lines Fig. 5: assign loading based on ratings of cache servers).